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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,011	11/01/2001	Roy K. Greenberg	PA-5270-RFB	3255

9896 7590 09/25/2003
COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON, IN 47402

EXAMINER

PHILOGENE, PEDRO

ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

BEST AVAILABLE COPY

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Office Action Summary	Application No.	Applicant(s)	
	10/003,011	GREENBERG ET AL.	
	Examiner	Art Unit	
	Pedro Philogene	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashi (5,910,144).

With respect to claim 1, Hayashi discloses a medical grasping device comprising: an elongate control member (50) having an atraumatic distal tip section and a proximal end portion; as best seen in Fig.2, the elongate control member further including a grasping portion (40) proximal the distal tip section; an outer sheath (22) with a passageway therethrough, as best seen in FIG.2, surrounding the elongate control member and relatively movable with respect thereto; and a control assembly (28,36,30,38,52) disposed at a proximal end of the outer sheath and the proximal end portion of the elongate control member; as best seen in FIG.2, and in operative relation thereto for urging the grasping portion from a distal end of the outer sheath and retraction thereinto; as set forth in column 4, lines 23-36.

With respect to claims 2-6, Hayashi discloses all the limitations, as set forth in columns 3-5, lines 1-67, and as best seen in FIGS 1-13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3732

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (5,910,144) in view of Avellanet (6,264,664).

With respect to claim 7, it is noted that Hayashi teaches all the limitations, except for a connecting block affixed to the control member disposed in a longitudinal slot; as claimed by applicant. However, in a similar art, Avellanet evidences the use of a connecting block disposed in a slot to move the grasping device in and out of the sheath.

Therefore, given the teaching of Avellanet, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the connecting block and the slot in the device of Avellanet with the control assembly of the device of Hayashi to facilitate the in and out of the grasping device within the sheath.

Claims 8-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (5,910,144) in view of Hillstead (5,098,440).

With respect to claims 8-22, it is noted that Hayashi teaches all the limitations, except for wire loops that are substantially circular upon full deployment, as claimed by applicant. However, in a similar art, Hillstead evidences the use of wire loops that are circular upon full deployment and having side sections that overlap and touch the vessel wall to engage the object to be retrieve with a greater force.

Therefore, given the teaching of Hillstead, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to incorporate the

design of the grasping device of Hillstead in the grasping device of Hayashi to engage the object to be retrieve with greater force.

Response to Amendment

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

A shortened statutory period for reply to this action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (703) 308-2252. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Pedro Philogene
September 22, 2003


PEDRO PHILOGENE
PRIMARY EXAMINER